

## **REMARKS**

### **Claim Rejections 35 U.S.C. §102**

Claims 1-23 stand reject under 35 U.S.C. §102(a) or 35 U.S.C. §102(b) as being anticipated by Rajwar based on his thesis “Speculation-based Techniques for Transactional Lock Free Execution of Lock-Based Programs.”

Applicant has previously noted that this thesis was first available to the public on April 25, 2003, less than one year prior to the filing date of the present application, as determined by consulting with University Microfilm, Inc. The Examiner is investigating the possibility that this statement may not preclude the thesis being available in the library of the University of Wisconsin before it was committed to microfilm form by University Microfilm, Inc. Accordingly, the previous claim rejection stands and Applicant has been requested additional information under 37 C.F.R. 1.105, indicating when the thesis was indexed, catalogued and shelved in the University of Wisconsin-Madison library.

In response to this request, the Applicant has conferred with Irene Zimmerman of the University of Wisconsin library as to the date that the thesis was first catalogued and, therefore, first available to the public. This date has been confirmed to be May 29, 2003, although the thesis was, in fact, not shelved in the stacks until around June 11, 2003. These dates are after the date that the thesis was available from University Microfilms of April 25, 2003 and well within the one-year date of the filing of the present application under 35 U.S.C. §102(b).

These dates are consistent with our understanding of the practice of the University of Wisconsin-Madison library, which is that dissertations received from the graduate school are sent to University Microfilms, who films the title, then returns a photocopy for filing to the library. Applicant believes that the publication date of 2002 suggested by the ACM index is simply a transcription of the date of Oral Examination, at which time the thesis was not available to the public.

Thus, the present thesis is not a reference under 35 U.S.C. §102(b).

With respect to 35 U.S.C. §102(a), Applicant hereby submits a statement establishing that co-inventor James R. Goodman contributed to the inventions described in this thesis and

thus the thesis is not prior art under 35 U.S.C. §102(a) as evidence that the invention was known or used by others.

In light of this additional information, and the affidavit, it is believed that the present claims 1-23 are now in condition for allowance and allowance is respectfully requested.

Although no additional fees are believed due for filing this amendment, if an additional fee is deemed to be due, please charge any fee to Deposit Account No. 50-1170.

Respectfully submitted,

By: 

Keith M. Baxter, Reg. No. 31,233  
Attorney for Applicant  
Boyle, Fredrickson, Newholm, Stein & Gratz  
250 E. Wisconsin Avenue  
Suite 1030  
Milwaukee WI 53202  
(414) 225-9755